



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMPSON COBURN, LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS, MO 63101

COPY MAILED

JUL 20 2004

OFFICE OF PETITIONS

In re Application of :
Cory O. Nykoluk :
Application No. 09/604,995 :
Filed: June 28, 2000 :
Attorney Docket No. 16513-2424 :

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34, the signature of Kirk Damman appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. If Mr. Damman desires to receive future correspondence regarding this application, an appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence will be directed solely to the address of record until otherwise instructed.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this matter may be directed to Retta Williams at (703) 306-5594 or in my absence, Frances Hicks at (703) 305-8680.

This matter is being referred to Technology Center 3700, Art Unit 3727 for consideration of the Notice of Appeal and the Amendment after final.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: KIRK DAMMAN
LEWIS, RICE AND FINGERSH, L.C.
ATTN: BOX IP DEPT.
500 N. BROADWAY, SUITE 2000
ST. LOUIS, MO 63102-2147